

2011 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB381)

Received: 12/08/2011

Received By: jkreye

Wanted: As time permits

Companion to LRB:

For: Andre Jacque (608) 266-9870

By/Representing: michael

May Contact:

Drafter: jkreye

Subject: Tax, Other - sales

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Rep.Jacque@legis.wi.gov

Carbon copy (CC:) to: joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Sales and use tax exemption for items and services sold as part of a lump sum contract

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/1	jkreye 12/08/2011	kfollett 12/08/2011	rschluet 12/09/2011	_____	mbarman 12/09/2011	mbarman 12/09/2011	

FE Sent For:

<END>

01-05-2012
("/1")

See
attached

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/?	jkreye	11/5 12/8		==			
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FE Sent For:

<END>

Assembly Bill 381 (LRB 2616/1): Creation of a sales and use tax exemption for items and services sold as part of a lump sum contract.

Suggestion 1: Creation of a Transitional Provision.

Under Section 2, specify that the exemption applies to contracts entered into on or after the effective date.

Suggestion 2: Clarify that the exemption applies only to a contractor's sale to his/her customer and not the contractor's purchases from the vendor/supplier as well.

Page 2, lines 4-7 are currently drafted without specifying which stage of purchase and sales that the items and services are exempt. The goal of the bill is to exempt the sale of the items and services as part of a lump sum contract that are sold by a contractor to his/her final customer. This section of the bill needs to explicitly indicate this intent; otherwise, no sales tax will be paid at any level of the process from supplier/vendor to final consumer.

The proposed remedy would be to amend lines 4-7 as follows:

"(b) The sales price from the sale of and the storage, use, or other consumption of tangible personal property, items and property under s. 77.52 (1) (b) and (c), and taxable services that are sold by a contractor as part of a lump sum contract, if the total sales price of all such items taxable products is less than 10 percent of the total amount of the lump sum contract. Except as provided in subd. (c), the contractor is deemed the consumer of such taxable products and shall pay the tax imposed under this subchapter on such taxable products.

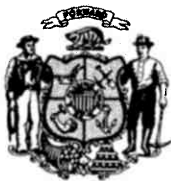
(c) If the lump sum contract is with an entity exempt from tax under sub. (9a), the contractor is the consumer of all taxable products used by them in real property construction activities, but may purchase without tax, for resale, tangible personal property, items and property under s. 77.52 (1) (b) and (c), and taxable services that are sold by the contractor as part of the lump sum contract with the exempt entity and are not consumed by the contractor in real property construction activities."

Suggestion 3: Clarify "lump sum contract" to include taxable activities that are not real property construction activities.

If a lump sum contract includes taxable activities, such as landscaping, the bill is currently unclear whether it would be included.

DOR proposes adding further clarification to page 1, beginning on line 4, as follows:

"77.54 (60) (a) In this subsection, "lump sum contract" means a contract to perform both real property construction activities and providing at least one of the following: 1. Tangible personal property; 2. Items and property under s. 77.52(1) (b) and (c), or 3. Taxable services and for which the contractor quotes the charge for labor, services of subcontractors, ~~and materials~~ tangible personal property, items and property under s. 77.52 (1) (b) and (c), and taxable services as one price including a contract for which the contractor itemizes the charges for labor, services of subcontractors, ~~and materials~~ tangible personal property, items and property under s. 77.52 (1) (b) and (c), and taxable services as part of a schedule of values or similar document."



State of Wisconsin
2011 - 2012 LEGISLATURE



LRBs0268/1

JK: *kgf*

ASSEMBLY SUBSTITUTE AMENDMENT,
TO 2011 ASSEMBLY BILL 381

in Thurs 12-8

due Friday 12-9

Ger

1 AN ACT ...; relating to: a sales and use tax exemption for items and services sold
2 as part of a lump sum contract.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 SECTION 1. 77.54 (60) of the statutes is created to read:

4 77.54 (60) (a) In this subsection, "lump sum contract" means a contract to
5 perform real property construction activities and to provide tangible personal
6 property, items or property under s. 77.52 (1) (b) or (c), or taxable services and for
7 which the contractor quotes the charge for labor, services of subcontractors, tangible
8 personal property, items and property under s. 77.52 (1) (b) and (c), and taxable
9 services as one price, including a contract for which the contractor itemizes the
10 charges for labor, services of subcontractors, tangible personal property, items and
11 property under s. 77.52 (1) (b) and (c), and taxable services as part of a schedule of
12 values or similar document.

1 (b) The sales price from the sale of and the storage, use, or other consumption
2 of tangible personal property, items and property under s. 77.52 (1) (b) and (c), and
3 taxable services that are sold by a contractor as part of a lump sum contract, if the
4 total sales price of all such taxable products is less than 10 percent of the total
5 amount of the lump sum contract. Except as provided in par. (c), the contractor is
6 the consumer of such taxable products and shall pay the tax imposed under this
7 subchapter on the taxable products.

8 (c) If the lump sum contract is entered into with an entity that is exempt from
9 taxation under sub. (9a), the contractor is the consumer of all taxable products used
10 by the contractor in real property construction activities, but the contractor may
11 purchase without tax, for resale, tangible personal property, items and property
12 under s. 77.52 (1) (b) and (c), and taxable services that are sold by the contractor as
13 part of the lump sum contract with the entity and that are not consumed by the
14 contractor in real property construction activities.

15 **SECTION 2. Initial applicability.**

16 (1) This act first applies to contracts entered into on the effective date of this
17 subsection.

18 **SECTION 3. Effective date.**

19 (1) This act takes effect on the first day of the 3rd month beginning after
20 publication.

21 (END)

O-Note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBs0268/1dn

JK...

egf

Date

Representative Jacque:

This substitute amendment is based on the changes suggested by Mike Wagner at DOR.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBs0268/1dn
JK:kjf:rs

December 9, 2011

Representative Jacque:

This substitute amendment is based on the changes suggested by Mike Wagner at DOR.

Joseph T. Kreye
Senior Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov

Barman, Mike

From: Kreye, Joseph
Sent: Thursday, January 05, 2012 1:54 PM
To: Barman, Mike
Subject: FW: AB 381

Mike,

Here's the request from the speaker's office.

Joe

Joseph Kreye
Senior Legislative Attorney
Legislative Reference Bureau
608 266-2263

From: Gustafson, Andrew
Sent: Thursday, January 05, 2012 1:51 PM
To: Kreye, Joseph
Cc: Murphy, Michael
Subject: AB 381

Joe:

Could I get an updated fiscal estimate the the substitute amendment on Assembly Bill 381?

Thank you very much.

Andrew Gustafson
Office of Rep. Jeff Fitzgerald
Assembly Republican Leader
(608) 266-2540



ACTIVE

LRB Number: 11s0268/1

Introduction Number: ASA1-AB381

Comment: "Supplemental" FE Requested - Per Joint Rule 41
(3) (b)

Request Date: 1/5/2012 2:23:20 PM

Description:

Subject:

PUBLIC DRAFT/BILL and Assignments

Edit the Request

Draft/Bill: Not attached